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Patent
Attorney Docket No. GEMS8081.200

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Jiang et al.

Serial No. : 10/707,405

Filed : December 11, 2003

For : MULTI-LAYER REFLECTOR FOR CT DETECTOR

Group Art No. : 2882

Examiner : Hoon K. Song

CERTIFICATION UNDER 37 CFR 1.8(a) and 1.10

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**PETITION UNDER 37 C.F.R. §1.181 SEEKING SUPERVISORY REVIEW OF THE
FINAL OFFICE ACTION**

Dear Sir:

Responsive to the Final Office Action dated August 10, 2006, Applicant requests Supervisory Review and consideration of the following remarks regarding the Examiner's premature issuance of a Final Office Action.

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REMARKS

The Examiner has prematurely issued a Final Office Action prior to rejecting claims 42-44 in a non-final office action and for improperly rejecting claims 16 and 26-33.

Rejection of claims 42-44.

A brief summary of the file history follows. Claims 1-33 were originally submitted when this application was filed on December 11, 2003. Claims 34-44 were added in the office action response dated August 17, 2005, and a restriction requirement was issued on October 31, 2005. In response, on November 30, 2005, Applicant elected, with traverse, that which the Examiner classified as Group I, which included new claims 34-44. In the non-Final Office Action mailed on February 8, 2006, the Examiner withdrew the previous restriction requirement and rejected some of the claims. However, the Examiner failed to provide grounds for the rejection of independent claims 42-44 therein.

MPEP§ 706.07(a) states that "[u]nder present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement" As explained above, claims 34-44 were added in the office action response filed August 17, 2005. However, the Examiner has not rejected claims 42-44 until the Final Office Action mailed August 10, 2006. That is, the Examiner first rejected claims 42-44 in the Final Office Action and introduced a new ground of rejection neither necessitated by an amendment nor based on an IDS. As such, Applicant believes that the Examiner's Final Rejection of claims 42-44 is premature.

The Examiner improperly rejected claim 16

The Examiner rejected claim 16 under 35 U.S.C. §103(a) as being unpatentable over Hsieh in view of Tsunota. However, the Examiner failed to assert where the subject matter of claim 16 may be taught or suggested in the prior art. Accordingly, Applicant believes that claim 16 is patentable over the art of record.

The Examiner improperly rejected claims 26-33.

The Examiner asserted that, "[r]egarding claims 26-33, Tsunota fails to teach the claimed method of forming the scintillator." *Final Office Action*, Pg. 7. However, the Examiner has not provided any statutory basis for rejecting claims 26-33. Claims 26-33 depend from claim 22, which was rejected under 35 U.S.C. 103(a) as being unpatentable over Tsunota in view of Akai. The Examiner has not, however, provided any statutory basis under which claims 26-33 are rejected. Instead, the Examiner inserted the assertion that Tsunota fails to teach the claimed

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method after the discussion of claim 21 without any apparent reasoning. As such, Applicant believes that the Examiner's rejection of claims 26-33 is improper.

Accordingly, Applicant petitions for supervisory review under 37 CFR 1.181 and requests withdrawal of the finality of the Final Office Action mailed August 10, 2006. Applicant has concurrently herewith filed a timely response to the Final Office Action mailed August 10, 2006, responding to the merits of the Final Office Action and requesting reconsideration of the finality by the Examiner.

Applicant herein requests Supervisory review of the issues stated hereinabove. Applicant believes no fee is due for filing the Petition. However, should a fee be deemed necessary, Applicant hereby authorizes charging of Deposit Account No. 07-0845.

Respectfully submitted,

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